

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HILLARY JORDAN, : CIVIL ACTION  
Plaintiff, :  
 :  
v. :  
 :  
STORAGE TECHNOLOGY CORP., :  
Defendant. : NO. 99-CV-329

**MEMORANDUM ORDER**

**J.M. KELLY, J.**

**OCTOBER 7, 1999**

Defendant, Storage Technology Corp. ("STC"), has filed a Motion to Dismiss Plaintiff's Complaint. Albeit late, Plaintiff, Hillary Jordan ("Jordan"), has filed a Response, and a conference in this matter was held this morning at which this Motion was discussed.

STC argues that Jordan's late service upon STC and use of a copy of an original summons make the service in this case so defective that the case must be dismissed under Ayers v. Jacobs & Crumpler, 99 F.3d 565 (3d Cir. 1996). This case differs from Ayers in that Jordan requested and was granted an extension to serve the Complaint. Further, the policy reasons stated in Ayers for requiring a signed and sealed summons are to ensure the summons is valid and the proper filing fees have been paid. Id. at 569. Service with a copy of a valid summons does not raise those concerns. Accordingly, STC's Motion to Dismiss is DENIED.<sup>1</sup>

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<sup>1</sup>Denial of this Motion is without prejudice to STC's ability to refile the Motion should it be determined that the original Summons was not valid.

At today's preliminary pre-trial conference in this matter, Jordan's attorney, Calvin Taylor, Jr., Esq., stated that he intended to transfer this file due to health concerns and requested a continuance in this matter. The Court stayed discovery until November 1, 1999, which Mr. Taylor assured the Court was sufficient time, to allow Jordan to retain substitute counsel. Mr. Taylor is required to notify Jordan of the status of this case.

BY THE COURT:

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JAMES MCGIRR KELLY, J.